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Sunset Review
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March 5, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary for
Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited First Sunset
Reviews of the Antidumping Duty Orders on Steel Wire Garment
Hangers from Taiwan and Vietnam

I. Summary

We have analyzed the responses of the domestic interested party in the first sunset reviews of the antidumping duty orders covering steel wire garment hangers (hangers) from Taiwan and the Socialist Republic of Vietnam (Vietnam). We recommend that you approve the positions described in the *Discussion of the Issues* section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received substantive responses:

1. Likelihood of the continuation or recurrence of dumping
2. Magnitude of the margins of dumping likely to prevail

II. Background

On November 1, 2017, the Department of Commerce (Commerce) published the notice of initiation of the first sunset reviews of the antidumping duty orders on hangers from Taiwan and Vietnam, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).¹ Commerce received a notice of intent to participate from M&B Metal Products Company, Inc. (the petitioner) as a domestic interested party, within the deadline specified in 19 CFR

¹ See *Initiation of Five-Year (Sunset) Reviews*, 82 FR 50612 (November 1, 2017) (*Notice of Initiation*).



351.218(d)(1)(i).² The petitioner claimed interested party status under section 771(9)(C) of the Act, as a manufacturer of a domestic like product in the United States.

Commerce received complete substantive responses to the *Notice of Initiation* from the domestic interested party within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).³ Commerce did not receive comments on the adequacy of responses in these sunset reviews. We received no substantive responses from respondent interested parties with respect to either of the orders covered by these sunset reviews, nor was a hearing requested. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting expedited (120-day) sunset reviews of the antidumping duty orders on hangers from Taiwan and Vietnam. Commerce has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results of these sunset reviews are now March 5, 2018.⁴

The orders on hangers from Taiwan and Vietnam remain in effect for all producers and exporters of the subject merchandise.

III. Scope of the Order

The merchandise subject to these orders are steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and whether or not fashioned with paper covers or capes (with or without printing) or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers.

Specifically excluded from the scope of the orders are: (a) wooden, plastic, and other garment hangers that are not made of steel wire; (b) steel wire garment hangers with swivel hooks; (c) steel wire garment hangers with clips permanently affixed; and (d) chrome plated steel wire garment hangers with a diameter of 3.4 millimeters (mm) or greater.

The products subject to the orders are currently classified under U.S. Harmonized Tariff Schedule (HTSUS) subheadings 7326.20.0020 and 7323.99.9080. Although the HTSUS sub-

² See Petitioner's Letter, "First Sunset Reviews of Steel Wire Garment Hangers from Taiwan and Vietnam – Notice of Intent to Participate," dated November 6, 2017.

³ See Petitioner's Letter, "First Sunset Review of Steel Wire Garment Hangers from Taiwan – Substantive Response of Domestic Producer to Notice of Initiation," dated November 30, 2017 (Taiwan Substantive Response); Petitioner's Letter, "First Sunset Review of Antidumping Duty Order on Steel Wire Garment Hangers from Vietnam – Substantive Response of Domestic Producer to Notice of Initiation," dated November 30, 2017 (Vietnam Substantive Response)

⁴ See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

headings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.⁵

IV. History of the Orders

Commerce published its final affirmative determination of sales at less than fair value (LTFV) in the *Federal Register* with respect to imports of hangers from Taiwan and Vietnam⁶ at the following percentage rate:

Taiwan

Taiwan Hanger Manufacturing Co., Ltd.	125.43
Golden Canyon Ltd.	69.98
All others	69.98

Vietnam

CTN Limited Company	157.00
Ju Fu Co., Ltd.	157.00
Triloan Hangers, Inc.	157.00
Vietnam- Wide Entity	220.68

Commerce later published in the *Federal Register* antidumping duty orders on hangers from Taiwan and Vietnam.⁷

Taiwan

Since the publication of the antidumping duty order, Commerce has conducted four administrative reviews of the antidumping duty order on hangers from Taiwan. However, the petitioner withdrew its review requests in each review, and Commerce subsequently rescinded each of these four administrative reviews.⁸

⁵ See *Steel Wire Garment Hangers from Taiwan: Antidumping Duty Order*, 77 FR 73424 (December 10, 2012) (*Taiwan Order*); *Steel Wire Garment Hangers from the Socialist Republic of Vietnam: Antidumping Duty Order*, 78 FR 8105 (February 5, 2013) (*Vietnam Order*).

⁶ See *Steel Wire Garment Hangers from Taiwan: Final Determination of Sales at Less Than Fair Value* 77 FR 62492 (October 15, 2012) (*Taiwan Final*); *Steel Wire Garment Hangers from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 77 FR 75980 (December 26, 2012) (*Vietnam Final*).

⁷ See *Taiwan Order*; *Vietnam Order*.

⁸ See *Steel Wire Garment Hangers from Taiwan: Rescission of Antidumping Duty Administrative Review*, 79 FR 24669 (May 1, 2014); *Steel Wire Garment Hangers from Taiwan: Rescission of Antidumping Duty Administrative Review*, 80 FR 12458 (March 9, 2015); *Steel Wire Garment Hangers from Taiwan: Rescission of Antidumping Duty Administrative Review*, 81 FR 19954 (April 6, 2016); *Steel Wire Garment Hangers from Taiwan: Rescission of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 15183 (March 27, 2017).

Vietnam

Since the publication of the antidumping duty order, Commerce has conducted four administrative reviews of the antidumping duty order on hangers from Vietnam. However, the petitioner withdrew its review requests in each review, and Commerce subsequently rescinded each of these four administrative reviews.⁹

Duty Absorption, Changed Circumstances Reviews, and Scope Inquiries

There have been no duty-absorption findings, changed circumstances reviews, or scope inquiries since the issuance of these antidumping duty orders.

V. Legal Framework

In accordance with section 751(c)(1) of the Act, Commerce is conducting these sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, Commerce shall consider both the weighted-average dumping margins determined in the investigations and subsequent reviews, and the volume of imports of the subject merchandise for the periods before and after the issuance of the antidumping duty orders.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (SAA)¹⁰, the House Report¹¹, and the Senate Report¹², Commerce's determinations of likelihood will be made on an order-wide, rather than company-specific, basis.¹³ In addition, Commerce normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when, among other scenarios: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.¹⁴

⁹ See *Steel Wire Garment Hangers from the Socialist Republic of Vietnam: Rescission of Antidumping Duty Administrative Review; 2012 -2014*, 79 FR 26405 (May 8, 2014); *Steel Wire Garment Hangers from the Socialist Republic of Vietnam: Rescission of Antidumping Duty Administrative Review; 2014-2015*, 80 FR 22706 (April 23, 2015); *Steel Wire Garment Hangers from Taiwan: Rescission of Antidumping Duty Administrative Review; 2015-2016*, 81 FR 25375 (April 28, 2016); *Steel Wire Garment Hangers from Socialist Republic of Vietnam: Rescission of Antidumping Duty Administrative Review; 2016-2017*, 82 FR 21194 (May 5, 2017).

¹⁰ See H.R. Doc. 103-316, vol. 1 (1994), reprinted in 1994 U.S.C.C.A.N. 4040, 4178 (SAA).

¹¹ See H. Rep. No. 103-826, pt. 1 (1994) (House Report), reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

¹² See S. Rep. No. 103-412 (1994) (Senate Report).

¹³ See SAA at 879 and House Report at 56.

¹⁴ See SAA at 889-90, House Report at 63-64, and Senate Report at 52. See also *Policies Regarding the Conduct of Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin 98.3*, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).

In addition, as a base period of import volume comparison, it is Commerce's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew the comparison.¹⁵

Further, section 752(c)(3) of the Act states that Commerce shall provide to the International Trade Commission (ITC) the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, Commerce selects the dumping margins from the final determination in the original investigation, as these rates are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.¹⁶ However, in certain circumstances, a more recently calculated rate may be more appropriate (*e.g.*, "if dumping margins have declined over the life of an order and imports have remained steady or increased, {Commerce} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review").¹⁷

In February 2012, Commerce announced it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be WTO-inconsistent (*i.e.*, zeroing/the denial of offsets).¹⁸ In the *Final Modification for Reviews*, Commerce stated that "only in the most extraordinary circumstances" would it rely on margins other than those calculated and published in prior determinations.¹⁹ Commerce further stated that apart from the "most extraordinary circumstances," it would "limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-inconsistent" and that it "may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive."²⁰

Pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* shall not by itself require Commerce to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.²¹

¹⁵ See, *e.g.*, *Stainless Steel Bar from Germany: Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁶ See SAA at 890; see also *Persulfates from the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008) (*Persulfates Second Sunset Review*), and accompanying Issues and Decision Memorandum at Comment 2.

¹⁷ See SAA at 890-91.

¹⁸ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012) (*Final Modification for Reviews*).

¹⁹ *Id.*

²⁰ *Id.*

²¹ See *Folding Gift Boxes from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

VI. Discussion of the Issues

1. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Party

- The domestic interested party believes that revocation of these antidumping duty orders would likely lead to a continuation or recurrence of dumping by the manufacturers/producers and exporters of the subject merchandise, as well as material injury to the U.S. industry.²²
- With respect to the volume of exports, the domestic interested party asserts that the imposition of the orders has had a dramatic impact on the volume of imports of hangers from Taiwanese and Vietnamese producers and exporters. The domestic interested parties point to record history of the orders to demonstrate that the discipline of the orders has forced foreign producers of subject merchandise to significantly reduce their volume of sales to the United States.²³
- Citing to Commerce's *Sunset Policy Bulletin*, the domestic interested party concludes that Commerce should determine that revocation of an antidumping duty order is inappropriate where dumping continued at any level above *de minimis* after the issuance of the order.²⁴ In sum, the domestic interested party argues that record evidence strongly supports the conclusion that dumping of hangers by producers, manufacturers, and exporters from Taiwan and Vietnam would be likely to continue or recur if the orders were to be revoked.

Commerce Position: As explained in the Legal Framework section above, when determining whether revocation of the order would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct Commerce to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the AD order. According to the SAA, existence of dumping margins after the order “is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. If imports cease after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping.”²⁵ In addition, “declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order may provide a strong indication that, absent an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes.”²⁶

Alternatively, the legislative history provides that declining (or no) dumping margins accompanied by steady or increasing imports may indicate that foreign companies do not have to

²² See Taiwan Substantive Response, Vietnam Substantive Response.

²³ *Id.*

²⁴ See *Sunset Policy Bulletin*.

²⁵ See SAA at 890.

²⁶ *Id.* at 889, the House Report at 63, and the Senate Report at 52.

dump to maintain market share in the United States and that dumping is less likely to continue or recur if the order were revoked.²⁷

Taiwan

We examined the import statistics for the relevant period which show that hangers from Taiwan remain well below pre-initiation levels.²⁸ Specifically, imports of hangers declined dramatically from 334,145,167 hangers in 2011 to 1,395,075 hangers when the order was issued in late 2012. Hanger imports from Taiwan continued to decline from pre-order levels, with a volume of 25,612 imported in 2016. The margins determined in the underlying investigation remain in effect for all companies. Further, these margins were calculated with facts otherwise available with an adverse inference, because the mandatory respondents in the investigation were either classified as an “unlocated company” or did not respond to Commerce’s questionnaire.²⁹ Therefore, these margins did not rely on a WTO-inconsistent methodology pursuant to the *Final Modification for Reviews*. We further find that these margins are reflective of the level of dumping without the discipline of an order in place. Accordingly, pursuant to section 752(c)(1) of the Act, Commerce determines that dumping is likely to continue or recur if the order were revoked. Accordingly, Commerce finds that dumping would likely continue or recur if the order were revoked, pursuant to section 752(c)(1) of the Act.

Vietnam

We examined the import statistics for the relevant period which show that hangers from Vietnam remain well below pre-initiation levels.³⁰ Specifically, imports of hangers declined dramatically, from 487,071,677 hangers in 2011, to 3,365,000 hangers when the order was issued in early 2013. Hanger imports from Vietnam continued to decline from pre-order levels, with a volume of 2,419,300 imported in 2016. The margins determined in the underlying investigation remains in effect for all companies. Further, these margins were calculated with facts otherwise available with an adverse inference, because no companies in the original investigation provided information to Commerce.³¹ Therefore, these margins did not rely on a WTO-inconsistent methodology pursuant to the *Final Modification for Reviews*. We further find that these margins are reflective of the level of dumping without the discipline of an order in place. Accordingly, pursuant to section 752(c)(1) of the Act, Commerce determines that dumping is likely to continue or recur if the order were revoked. Accordingly, Commerce finds that dumping would likely continue or recur if the order were revoked, pursuant to section 752(c)(1) of the Act.

²⁷ See SAA at 889-90, House Report at 63, and Senate Report at 52.

²⁸ See Taiwan Substantive Responses at 7.

²⁹ See Taiwan Final, 77 FR at 62492.

³⁰ See Vietnam Substantive Responses at 7-8.

³¹ See Vietnam Final, 77 FR at 75982.

2. Magnitude of the Margins of Dumping Likely to Prevail

Domestic Interested Parties

- The domestic interested party requests that Commerce report to the ITC the dumping margins that were determined in the investigations, as amended and in accordance with the *Sunset Policy Bulletin*, as the magnitude of the margins of dumping likely to prevail if the findings were revoked. These rates are set forth in the “History of the Orders” section, above.

Commerce Position: Pursuant to section 752(c)(3) of the Act, the administering authority shall provide to the ITC the magnitude of the margins of dumping that is likely to prevail if the order were revoked. Normally, Commerce will select a weighted-average dumping margin from the investigation to report to the ITC.³² Commerce’s preference is to select a weighted-average dumping margin from the LTFV investigation because it is the only calculated rate that reflects the behavior of the producers and exporters without the discipline of an order or suspension agreement in place.³³ Finally, as explained above, in accordance with the *Final Modification for Reviews*, Commerce will not rely on weighted average dumping margins that were calculated using the methodology found to be WTO-inconsistent.³⁴

Because dumping continued following the issuance of the orders and given the absence of argument and evidence to the contrary, Commerce finds that the margins calculated in the original investigations are probative of the behavior of producers and exporters of subject merchandise from Taiwan and Vietnam if these orders were revoked. Consistent with section 752(c) of the Act, Commerce will report to the ITC the margins up to the highest rate from the investigations concerning subject merchandise from Taiwan and Vietnam as indicated in the “Final Results of Reviews” section of this memorandum. As described above, these margins did not involve zeroing.

VII. Final Results of Sunset Reviews

We determine that revocation of the antidumping duty orders on hangers from Taiwan and Vietnam would likely lead to continuation or recurrence of dumping, and that the magnitude of

³² See SAA at 890; see also, e.g., *Persulfates Second Sunset Review* 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

³³ See *Eveready Battery Company v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999); see also SAA at 890.

³⁴ See *Final Modification for Reviews*, 77 FR at 8103.

the margins of dumping likely to prevail would be up to the following weighted-average dumping margins:

<u>Country</u>	<u>Weighted-Average Dumping Margin</u> (percent)
Taiwan	125.43
Vietnam	220.68

VIII. Recommendation

Based on our analysis of the responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish these final results of sunset reviews in the *Federal Register*.



Agree

Disagree

3/5/2018

X



Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance